

REMARKS / ARGUMENTS

In the above-identified Office Action the Examiner has rejected claims 1-11 and 13-16 as unpatentable over Maruhashi et al. and Truter et al. The Examiner has stated that it would have been obvious to have utilized the methyl vinyl ether maleic anhydride recited by Truter et al. as the cross-linking agent disclosed to be necessary by Maruhashi et al. Applicant has amended Claim 1 so that it now recites that the barrier component has an average oxygen transmission rate of no more than 0.0400 cc/500ml bottle/day. Such is not obvious from the cited art or its combination in that Maruhashi et al. teaches essentially a film, with no disclosure concerning a gas transmission rate, while Truter et al. teaches a hydrogel composition which, by its nature, has significant gas transmission and is unsuitable as a gas barrier material. Similarly, all Maruhashi's disclosed PVOH-starch blend films have substantial water swelling, which would lead to poor gas barrier properties. In contrast, by selecting complementary polymers to form an interpolymer complex according to the present claims, the inventors achieved excellent gas barrier properties. Further, it is "essential" that Maruhashi et al. be uniaxially stretched. The stretching is done after it has been peeled off a PET film. Thus the film of Maruhashi et al., in its final state, means a film and not a laminate on a solid substrate such as a bottle might present. Films cannot be stretched post application to rigid containers.

Applicant, as stated above, has introduced into Claim 1 the feature of the oxygen transmission rate, which is supported by the example and data in Table 2, which it considers to be representative of the disclosed embodiments of the invention. Applicant is willing to supply data showing the oxygen transmission rates of other embodiments should the Examiner so require.

Applicant also notes, as stated in its prior response, that Maruhashi et al. compositions all have substantial moisture absorption and swelling and, thus, would not

Application No. 10/540,990
Amdt. dated 3 June 2010
Reply to Office Action of 9 March 2010

have significant useful gas barrier properties. The addition of the hydrogel composition of Truter et al. would not correct this feature insofar as the compositions of Truter et al., as stated, are engineered specifically for oxygen permeability, e.g. as stated in the application column 4, line 40, an oxygen permeability of less than 1400ml/meter²/min. Thus the combination of Maruhashi et al. and Truter et al. would certainly not suggest or yield a very low oxygen transmission rate as now claimed.

Applicant hereby requests reconsideration and reexamination thereof.

No further fee or petition is believed to be necessary. However, should any further fee be needed, please charge our Deposit Account No. 23-0920, and deem this paper to be the required petition.

With the above amendments and remarks, this application is considered ready for allowance and applicant earnestly solicits an early notice of same. Should the Examiner be of the opinion that a telephone conference would expedite prosecution of the subject application, he/she is respectfully requested to call the undersigned at the below listed number.

Application No. 10/540,990
Amdt. dated 3 June 2010
Reply to Office Action of 9 March 2010

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gerald T. Shekleton". The signature is fluid and cursive, with the first name "Gerald" being more prominent than the last name "Shekleton".

Dated: 3 June 2010

Gerald T Shekleton
Reg. No. 27,466
Husch Blackwell Sanders Welsh & Katz
120 South Riverside Plaza, 22nd Floor
Chicago, Illinois 60606
Phone: (312) 655-1511
Fax: (312) 655-1501